

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke  
Probation Against:

**REBECCA ANN SETTLES**

838 N. Vendome Street  
Los Angeles, CA 90026

Registered Nurse License No. 477506

Respondent.

Case No. N2005081066

OAH No. 2009070766

**DECISION**

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on **April 12, 2010**.

IT IS SO ORDERED this **11th** day of **March**, 2010.



Board of Registered Nursing  
Department of Consumer Affairs  
State of California

**BEFORE THE  
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DEPARTMENT OF CONSUMER AFFAIRS  
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Registered Nurse License No. 477506

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OAH No. 2009070766

**PROPOSED DECISION**

Nancy Beezy Micon, Administrative Law Judge with the Office of Administrative Hearings, heard this matter on December 30, 2009, in Los Angeles, California.

Gillian E. Friedman, Deputy Attorney General, represented Complainant.

Rebecca Ann Settles (Respondent) represented herself.

Oral and documentary evidence was received, argument was heard, and the matter submitted on the hearing date, December 30, 2009.

**FACTUAL FINDINGS**

1. Ruth Ann Terry, M.P.H., R.N. (Complainant), brought the Petition to Revoke Probation in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs (Board).

2. On March 19, 1992, the Board issued Registered Nurse License number 477506 to Respondent. The license is active and expires on April 30, 2010, unless renewed.

*Respondent's Probation*

3. In a prior disciplinary action, Case No. 2001-209, the Board issued a decision and order, effective May 1, 2002, revoking Respondent's license and requiring her to pay costs of \$5,862 for investigation and enforcement. The Board determined that Respondent had engaged in unprofessional conduct, and was subject to disciplinary action under Business and Professions Code sections 2761, subdivision (a) (unprofessional conduct); and

2762, subdivisions (a) and (e).<sup>1</sup> The revocation was stayed, and Respondent's license was placed on probation for three years.

4. Respondent filed a Petition for Reinstatement with the Board on July 25, 2005, indicating she wished to return to nursing practice. In a decision and order, effective December 4, 2005, the Board granted Respondent's petition for reinstatement and required her to pay the outstanding balance of \$5,862 in cost recovery pursuant to a payment plan approved by the Board. The reinstated license was revoked, the revocation stayed, and Respondent's license was placed on probation for three years under certain terms and conditions.

5. Probation Condition 13 provides that if Respondent violates the conditions of her probation, the Board may, after giving Respondent notice and an opportunity to be heard, set aside the stay order and impose the revocation of Respondent's license.

6. Probation Condition 13 also provides that a request to the Attorney General's Office to prepare an accusation or petition to revoke probation during the period of probation extends the period of probation until the Board has acted on the petition. The effective date of Respondent's three-year probationary period was December 4, 2005. The Petition to Revoke Probation was served upon Respondent on November 12, 2008, within three years of its effective date. The preparation and service of the Petition to Revoke Probation within the probationary period extended Respondent's probation pending the Board's determination of the Petition.

#### *Probation Violations*

7. Probation Condition 6 required Respondent to submit quarterly written reports during the probation period. The reports were to be submitted within seven days of the close of each quarter. Respondent violated this condition by failing to timely submit quarterly reports between January 2007 and June 2008. The quarterly reports for the first three quarters of 2007 were received on December 31, 2007. The quarterly reports for the last quarter of 2007 and the first two quarters of 2008 were not received until August 20, 2008.

8. Probation Condition 7 imposed on Respondent the obligation to engage in the practice of registered nursing in California for a minimum of 24 hours per week for six consecutive months or as determined by the Board. Respondent violated this condition by

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<sup>1</sup> Under Business and Professions Code section 2762, it is unprofessional conduct for a nurse to: "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device in Section 4022. ... (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section."

failing to demonstrate that she functioned as a registered nurse in an approved practice for the required time.

9. Probation Condition 12 required Respondent to pay the Board's investigation and enforcement costs of \$5,862. The provision permitted the payments to be made pursuant to a payment plan approved by the Board. Respondent failed to make payments because she hoped to arrange a payment plan with the Board. However, no payment plan was made. After initiation of this action, Respondent paid \$600 between June and December 2009, toward the costs owed. She owes a balance due of \$5,262. If no other conditions of probation had been violated, it would have been within the Board's discretion to grant up to a one year extension for Respondent to comply with this condition.

10. Probation Condition 16 required Respondent to participate in a treatment/rehabilitation program for chemical dependency, at her expense. This condition required, among other things, that Respondent attend, each week, at least one but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous (NA), Alcoholics Anonymous (AA), etc.) and a nurse support group as approved and directed by the Board. Respondent was required to submit dated and signed documentation confirming such attendance to the Board during the entire period of probation. Respondent violated this condition by failing to submit proof of attendance at AA/NA support group and nurse support group meetings during the entire period of probation. Respondent did not submit verification of her attendance in support groups for the periods between May 2006 and November 2007 until the end of 2007. The verification for attendance in support groups for the period from January to June 2008 was not received by the Board until August 20, 2008.

11. Probation Condition 17 required Respondent to "completely abstain from the possession, injection or consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment." Respondent violated this condition by failing to abstain from consuming alcohol. She tested positive for alcohol on May 4, 2007; May 30, 2007; July 5, 2007; August 16, 2007; September 4, 2007; October 11, 2007; November 15, 2007; January 2, 2008; April 14, 2008; April 29, 2008; May 8, 2008; June 9, 2008; July 9, 2008; August 21, 2008; and October 21, 2008.

12. Probation Condition 18 required Respondent to participate, at her expense, in random, biological fluid testing or a drug screening program. Compass Vision is the lab used by the Board for its drug screening program. Under the program, any confirmed positive finding is considered a violation of probation. Respondent violated probation condition 18 on 15 occasions between May 4, 2007 and October 21, 2008, as set forth in factual finding number 11.

13. Probation Condition 19 required Respondent, at her expense, to participate in a mental health examination within 45 days of December 4, 2005, the effective date of its decision, to determine her capabilities to perform the duties of a registered nurse. Respondent violated probation condition 19 by failing to have a mental health examination

within 45 days of the effective date of the Board's decision. On April 1, 2008, Respondent submitted a form stating that she had a mental health examination on March 14, 2008.

14. Probation Condition 20 required Respondent, at her expense, to participate in an ongoing counseling program until the Board released her from this requirement upon the recommendation of the counselor. Respondent violated this condition because she failed to participate in ongoing counseling. On August 20, 2008, Respondent verified that she had begun counseling in December 2007, two years after the effective date of the Board's decision.

15. Probation Condition 3 required Respondent to fully comply with the terms of her probation to the Board. It provides: "Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension." Respondent violated this condition in that she failed to comply with Probation Conditions 6, 7, 12, 16, 17, 18, 19, and 20.

#### *Respondent's Evidence*

16. Respondent contends the laboratory test results showing that she tested positive for alcohol on 15 occasions were false positive tests. She asserts that her date of sobriety is still December 26, 2001. Respondent believes that her use of an inhaler for asthma may be the cause of the positive test results. Respondent submitted articles on the topic of the unreliability of EtG as confirmation of a relapse. She also submitted a letter from Thomas A. Harris (Harris), her supervisor at Glendale Adventist Medical Center, where Respondent works as a treatment authorization request coordinator. Harris has been in recovery for many years, and has known Respondent through their participation in a nurse support group. As Respondent's supervisor, Harris has never observed behavior in Respondent that would indicate a relapse, such as tardiness, poor attendance, the use of products to mask the smell of alcohol, shakiness, irritability, inattentiveness, or time away from her desk. According to Harris, Respondent openly discussed her concern about the positive alcohol tests with him.

17. Respondent asserts that she did not realize ongoing counseling was part of her probationary terms.

18. Respondent asserts that she saw a psychiatrist in March 2007 and asked him to send his report to the Board right away. The doctor did not send the report until April 2008. Respondent contends there was a delay in seeing the psychiatrist because she needed a referral to obtain the appointment.

19. Respondent does not dispute that she violated the terms of her probation. Due to her financial situation, Respondent was unable to comply with the cost recovery condition of the probation. Respondent convincingly testified that her current wage level makes it difficult for her to cover her living costs. Respondent was attempting to set up a payment plan to comply with the cost recovery condition.

20. Respondent does not deny that she was at fault in failing to timely submit her quarterly report and verification of counseling. Respondent pointed out that her last quarterly report was submitted on time. She asserts she will do her best to submit future reports on time. Respondent acknowledged that she has changed but is still a "chronic procrastinator."

21. Respondent is grateful that she got clean. It has improved her life. She asserts that she would not have paid for monitoring, counseling, and other requirements of the probation if she was not sober and committed to continuing in her recovery.

#### *Other Facts in Evidence*

22. On October 20, 2009, Gerald M. Legaspi, R.N., signed an ongoing treatment verification form for submission to the Board to verify Respondent's participation in an intensive program for alcohol dependence. Respondent asserted she was "clean" when she attended the program. Respondent asserts she attended the program because her program manager required it of her after the positive alcohol tests. She contends the "alcohol dependent" notation was required in order for insurance coverage to cover the cost of the rehabilitation program.

23. Soon after she received her probationary license, the Board's probation monitor explained the details of Respondent's probationary conditions to her. Respondent at that time indicated that she understood each and every probationary term and condition. On April 6, 2006, Respondent signed a Probation Summary Report certifying the terms of probation had been discussed with her and that she understood them.

24. The probation monitor was unable to speak with Respondent's doctors because she did not have a signed release from Respondent providing permission to do so. Respondent claimed a release had been sent but Respondent did not produce evidence of this fact.

25. The Board's testing agency has two levels of positive alcohol tests. At one level, an alcohol test is considered positive but could be due to the incidental use of alcohol, such as from an asthma inhaler or the use of mouthwash. At the next higher level, the test result is considered positive for alcohol use. The Board considers an alcohol test result to be positive only when it is above the higher level. Respondent's positive alcohol test results were considered to be positive by the Board's testing standards.

26. Other than her own testimony, Respondent offered no other testimony, such as from a treating physician or alcohol testing expert, to support her assertions.

### LEGAL CONCLUSIONS

1. Cause exists to revoke Respondent's probation, to lift the stay, and to reimpose the revocation order issued in Case No. N2005081066, pursuant to Business and Professions Code section 2750 and by reason of the matters set forth in factual finding numbers 3-26.

2. All evidence in mitigation, rehabilitation, and aggravation has been considered. Respondent's evidence was insufficient to persuade that she did not violate the probationary condition that she refrain from the use of alcohol. The positive alcohol test results are strong evidence of Respondent's failure to comply with this most essential element of her probation. The testing results were further supported by the document verifying that Respondent had undergone treatment for "alcohol dependence." Respondent, in addition, ignored her probation obligations. Respondent offered no evidence of any changes in her situation that would give the Board reason to believe that her performance on probation will improve in the near future. Therefore, Respondent's probation should be revoked as Complainant requests.

3. Cause exists pursuant to Business and Professions Code section 125.3 to order Respondent to pay the Board's prosecution costs of \$5,262, by reason of factual finding number 9, and legal conclusion number 1.

4. In *Zuckerman v. State Board of Chiropractic Examiner* (2002) 29 Cal.4th 32, the Supreme Court rejected a constitutional challenge to a cost regulation similar to section 125.3. In so doing, however, the Court directed the administrative law judge and the agency to evaluate several factors to ensure that the cost provision did not deter individuals from exercising their right to a hearing. Thus, the board must not assess full costs where it would unfairly penalize the respondent who has committed some misconduct, but who has used the hearing process to obtain the dismissal of some charges or a reduction in the severity of the penalty; the board must consider a respondent's subjective good faith belief in the merits of his or her position and whether the respondent has raised a colorable challenge; the board must consider a respondent's ability to pay; and the board may not assess disproportionately large investigation and prosecution costs when it has conducted a disproportionately large investigation to prove that a respondent engaged in relatively innocuous misconduct. (*Id.* at p. 45.)

5. In this matter, Respondent used the hearing process in an effort to obtain a reduction in the severity of the discipline requested; she had a subjective good faith belief in the merits of her position, she raised a colorable challenge to the proposed discipline, and she established that she currently has limited financial ability to make payments. Respondent convincingly testified that her current financial situation makes it difficult for her to meet her living costs. Therefore, though Complainant's costs were reasonable, in light of the order below, requiring Respondent to pay Complainant's costs at this time would be unduly

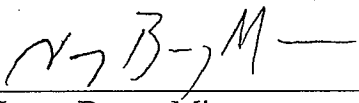
punitive. Based on the *Zuckerman* factors, it is concluded that an order should be issued requiring Respondent to pay the costs of investigation and enforcement of \$5,262, but that this amount shall become payable only if Respondent seeks reinstatement of her license.

ORDER

The Petition to Revoke Probation is granted, and Respondent Rebecca Ann Settle's probation is revoked. The stay of the revocation imposed in Case No. N2005081066 is lifted and the order of revocation of Registered Nurse License No. 477506, issued to Respondent Rebecca Ann Settles, is imposed.

Respondent Rebecca Ann Settles is directed to pay to the Board of Registered Nursing, Department of Consumer Affairs, upon the filing of a request for reinstatement, the sum of \$5,262 for costs of investigation and enforcement.

DATED: January 29, 2010

  
\_\_\_\_\_  
Nancy Beezy Micon  
Administrative Law Judge  
Office of Administrative Hearings



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7 Attorneys for Complainant

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

11 In the Matter of the Petition to Revoke Probation  
Against:

Case No. N2005081066

12 REBECCA ANN SETTLES  
13 838 N. Vendome Street  
Los Angeles, CA 90026  
14

**PETITION TO REVOKE  
PROBATION**

15 Registered Nurse License No. 477506  
(Reinstated 12/04/2005, Expires 04/30/2010)

16 Registered Nurse License No. 477506  
(Issued 03/19/1992, Revoked 05/01/2002)

17 Respondent.  
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20 Complainant alleges:

21 **PARTIES**

22 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Petition to  
23 Revoke Probation solely in her official capacity as the Executive Officer of the Board of  
24 Registered Nursing, Department of Consumer Affairs.

25 2. On or about March 19, 1991, the Board of Registered Nursing (Board)  
26 issued Registered Nurse License Number 477506 to Respondent Rebecca Ann Settles  
27 (Respondent).

28 ///

1                   3.     On January 18, 2001, the Board filed an Accusation against Rebecca Ann  
2 Settles, captioned as "In the Matter of the Accusation Against Rebecca Ann Settles," Case No.  
3 2001-209 which alleged among other things, that Respondent illegally diverted Demerol (a  
4 controlled substance) for her own use. An administrative hearing was held and a decision and  
5 order was issued effective May 1, 2002<sup>1</sup>, wherein Respondent's license was revoked and  
6 Respondent was required to pay costs of \$5,862.00 of investigation and enforcement within 90  
7 days of the effective date of the decision and order.

8                   4.     In the action entitled "In the Matter of the Petition for Reinstatement:  
9 Rebecca A. Settles," OAH Case No. N2005081066, the Board issued a decision and order, which  
10 became effective on December 4, 2005, granting Respondent's Petition for Reinstatement.  
11 Respondent's Registered Nurse License was reinstated and then immediately revoked. However,  
12 the revocation was stayed and Respondent was placed on probation for a period of three (3)  
13 years with certain terms and conditions effective June 16, 2006, the date of the renewal of the  
14 Registered Nurse License. The Registered Nurse License was in effect at all times relevant to the  
15 charges brought herein, and will expire on April 30, 2010, unless renewed. A copy of the  
16 Decision and Order for Reinstatement is attached as Exhibit A and is incorporated by reference.

#### 17                                   JURISDICTION

18                   5.     This Petition to Revoke Probation is brought before the Board under the  
19 authority of the following laws. All section references are to the Business and Professions Code  
20 (Code), unless otherwise indicated.

#### 21                                   STATUTORY PROVISIONS

22                   6.     Section 2750 of the Code provides, in pertinent part, that the Board may  
23 discipline any licensee, including a licensee holding a temporary or an inactive license, for any  
24 reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

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26                   1. The Decision and Order revoking Respondent's license and ordering payment of costs  
27 was originally to become effective on March 22, 2002. Respondent filed a petition for  
28 reconsideration before the Board that resulted in an extension of the effective date of the  
revocation and payment of costs until May 1, 2002.

7. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b), the Board may renew an expired license at any time within eight years of the expiration.

## COST RECOVERY

8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

### FIRST CAUSE TO REVOKE PROBATION

**(Failure to Timely Submit Required Quarterly Reports)**

9. At all times after the effective date of Respondent's probation, Condition 6 of the Decision and Order for Reinstatement stated:

Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

Respondent shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

10. Respondent's probation is subject to revocation because she failed to comply with Probation Condition 6, referenced above, in that she failed to timely submit the required quarterly reports as follows: The Board did not receive the following reports until December 31, 2007: January 2007 through March 2007, April 2007 through June 2007; and July 2007 through September 2007. The Board did not receive the following additional reports until August 20, 2008: October 2007 through December 2007, January 2008 through March 2008; and April 2008 through June 2008.

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1 If respondent has not complied with this condition during the  
2 probationary term, and respondent has presented sufficient  
3 documentation of his or her good faith efforts to comply with this  
4 condition, and if no other conditions have been violated, the  
5 Board, in its discretion, may grant an extension of respondent's  
6 probation period up to one year without further hearing in order to  
7 comply with this condition. During the one year extension, all  
8 original conditions of probation will apply.

9 14. Respondent's probation is subject to revocation because she failed to  
10 comply with Probation Condition 12, referenced above, in that she has not made cost recovery  
11 payments and owes the entire \$5,862.00 balance that was required to have been paid in full no  
12 later than July 30, 2002.

#### 13 **FOURTH CAUSE TO REVOKE PROBATION**

##### 14 **(Failure to Timely Verify Attendance at 12-Step Meetings)**

15 15. At all times after the effective date of Respondent's probation,  
16 Condition 16 of the Decision and Order for Reinstatement stated:

17 Respondent, at her expense, shall successfully complete during the  
18 probationary period or shall have successfully completed prior to  
19 commencement of probation a Board-approved  
20 treatment/rehabilitation program of at least six months duration.  
21 As required, reports shall be submitted by the program on forms  
22 provided by the Board. If respondent has not completed a Board-  
23 approved treatment/rehabilitation program prior to commencement  
24 of probation, respondent, within 45 days from the effective date of  
25 the decision, shall be enrolled in a program. If a program is not  
26 successfully completed within the first nine months of probation,  
27 the Board shall consider respondent in violation of probation.

28 Based on Board recommendation, each week respondent shall be  
required to attend at least one, but no more than five 12-step  
recovery meetings or equivalent (e.g., Narcotics Anonymous,  
Alcoholics Anonymous, etc.) and a nurse support group as  
approved and directed by the Board. If a nurse support group is not  
available, an additional 12-step meeting or equivalent shall be  
added. Respondent shall submit dated and signed documentation  
confirming such attendance to the Board during the entire period  
of probation. Respondent shall continue with the recovery plan  
recommended by the treatment/rehabilitation program or a licensed  
mental health examiner and/or other ongoing recovery groups.

16. Respondent's probation is subject to revocation because she has failed to  
comply with Probation Condition 16, referenced above, by failing to timely submit verification  
of attendance at 12-Step meetings, including Narcotics Anonymous, Alcoholics Anonymous and

1 Nurse Support groups. Respondent's verification of attendance in support groups for the period  
2 May 2006 through November 2007 was not received by the Board until December 31, 2007.  
3 Moreover, verification of attendance in support groups from January 2008 through June 2008  
4 was not received by the Board until August 20, 2008.

### 5 **FIFTH CAUSE TO REVOKE PROBATION**

#### 6 **(Failure to Abstain from Alcohol)**

7 17. At all times after the effective date of Respondent's probation,  
8 Condition 17 of the Decision and Order for Reinstatement stated:

9 Respondent shall completely abstain from the possession, injection  
10 or consumption by any route of all psychotropic (mood altering)  
11 drugs, including alcohol, except when the same are ordered by a  
12 health care professional legally authorized to do so as part of  
13 documented medical treatment. Respondent shall have sent to the  
14 Board, in writing and within fourteen (14) days, by the prescribing  
15 health professional, a report identifying the medication, dosage,  
16 the date the medication was prescribed, the respondent's  
17 prognosis, the date the medication will no longer be required; and  
18 the effect on the recovery plan, if appropriate.

15 Respondent shall identify for the Board a single physician, nurse  
16 practitioner or physician assistant who shall be aware of  
17 respondent's history of substance abuse and will coordinate and  
18 monitor any prescriptions for respondent for dangerous drugs,  
19 controlled substances or mood-altering drugs. The coordinating  
20 physician, nurse practitioner, or physician assistant shall report to  
21 the Board on a quarterly basis respondent's compliance with this  
22 condition. If any substances considered addictive have been  
23 prescribed, the report shall identify a program for the time limited  
24 use of any such substances.

20 The Board may require the single coordinating physician, nurse  
21 practitioner, or physician assistant to be a specialist in addictive  
22 medicine, or to consult with a specialist in addictive medicine.

22 18. Respondent's probation is subject to revocation because she failed to  
23 comply with Probation Condition 17, referenced above, in that she tested positive for alcohol  
24 following the Ethylglucuronide (ETG) screens conducted on the following dates: May 4, 2007;  
25 May 30, 2007; July 5, 2007; August 16, 2007; September 4, 2007; October 11, 2007; November  
26 15, 2007; January 2, 2008; April 24, 2008; April 29, 2008; May 8, 2008; June 9, 2008; July 9,  
27 2008; August 21, 2008 and October 21, 2008.

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1 April 24, 2008; April 29, 2008; May 8, 2008; June 9, 2008; July 9, 2008; August 21, 2008 and  
2 October 21, 2008.

3 **SEVENTH CAUSE TO REVOKE PROBATION**

4 **(Failure to Timely Submit Mental Evaluation)**

5 21. At all times after the effective date of Respondent's probation,  
6 Condition 19 of the Decision and Order for Reinstatement stated:

7 The respondent shall, within 45 days of the effective date of this  
8 decision, have a mental health examination including  
9 psychological testing as appropriate to determine his/her capability  
10 to perform the duties of a registered nurse. The examination will  
11 be performed by a psychiatrist, psychologist or other licensed  
12 mental health practitioner approved by the Board. The examining  
13 mental health practitioner will submit a written report of that  
14 assessment and recommendations to the Board. All costs are the  
15 responsibility of the respondent. Recommendations for treatment,  
16 therapy or counseling made as a result of the mental health  
17 examination will be instituted and followed by the respondent.  
18 If respondent is determined to be unable to practice safely as a  
19 registered nurse, the licensed mental health care practitioner  
20 making this determination shall immediately notify the Board and  
21 respondent by telephone, and the Board shall request that the  
22 Attorney General's office prepare an accusation or petition to  
23 revoke probation. Respondent shall immediately cease practice and  
24 may not resume practice until notified by the Board. During this  
25 period of suspension, respondent shall not engage in any practice  
26 for which a license issued by the Board is required, until the Board  
27 has notified respondent that a mental health determination permits  
28 respondent to resume practice. This period of suspension will not  
apply to the reduction of this probationary time period.

19 Respondent failed to comply with Condition 19, wherein Respondent was required to  
20 complete a mental examination within 45 days of the May 1, 2002 decision and order.  
21 Thereafter, Respondent was given a second notice on July 30, 2006 to comply with Condition  
22 19. Respondent failed to timely comply with this requirement, in that the Board did not receive  
23 evidence of the completion of this requirement until April 1, 2008.

24 **EIGHTH CAUSE TO REVOKE PROBATION**

25 **(Failure to Attendance of On-Going Counseling Sessions)**

26 22. At all times after the effective date of Respondent's probation,  
27 Condition 20 of the Decision and Order for Reinstatement stated:  
28 ///



Respondent, at her expense, shall participate in an on-going counseling program until such time as the Board releases him/her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

23. Respondent's probation is subject to revocation for violating Condition 20, where Respondent failed to timely verify attendance of ongoing counseling sessions in that she failed to verify on-going treatment until August 20, 2008 and Respondent did not start treatment until December 2007.

### **NINTH CAUSE TO REVOKE PROBATION**

#### **(Failure to Comply with Terms and Conditions of Probation)**

24. At all times after the effective date of Respondent's probation, Condition 3 of the Decision and Order for Reinstatement stated:

Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, respondent's license shall be fully restored.

25. Respondent's probation is subject to revocation because she failed to comply with Probation Condition 3 as referenced above. Specifically, Respondent failed to comply with Probation Conditions 6, 7, 12, 16, 17, 18, 19 and 20, above, as set forth in paragraphs 9 through 23, which are incorporated herein by this reference, as though set forth in full.

### **DISCIPLINE CONSIDERATIONS**

To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that, in a prior disciplinary action before the Board entitled, Respondent's license was revoked, effective May 1, 2002. That decision is now final and is incorporated by reference as if fully set forth.

///

1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the Board issue a decision:


4 1. Revoking the probation that was granted by the in Case No.  
5 N2005081066, and imposing the disciplinary order that was stayed, thereby revoking Registered  
6 Nurse License No. 477506, issued to Respondent;

7 2. Revoking or suspending Registered Nurse License No. 477506, issued to  
8 Respondent;

9 3. Ordering Respondent to pay the Board the reasonable costs of the  
10 investigation and enforcement of the case, pursuant to Code section 125.3; and

11 4. Taking such other and further action as is deemed necessary and proper.

12  
13 DATED: Nov. 3, 2008

14   
15 RUTH ANN TERRY, M.P.H., R.N.  
16 Executive Officer  
17 Board of Registered Nursing  
18 Department of Consumer Affairs  
State of California  
Complainant

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BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition for  
Reinstatement:

**REBECCA A. SETTLES**

Registered Nurse License No. 477506

Petitioner.

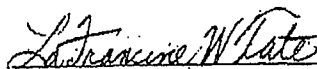
OAH No. N2005081066

**DECISION**

The attached Decision of the Board of Registered Nursing is hereby adopted by the Board as its Decision in the above-entitled matter.

This Decision shall become effective on December 4, 2005.

IT IS SO ORDERED this 4<sup>th</sup> day of November 2005.



President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition for  
Reinstatement of:

REBECCA A. SETTLES,

Petitioner.

OAH No. N2005081066

**DECISION**

This matter was heard before the Board of Registered Nursing in Sacramento, California on September 8, 2005. Jonathan Lew, Administrative Law Judge, State of California, Office of Administrative Hearings, presided.

Jessica Amgwerd, Deputy Attorney General, appeared on behalf of the Department of Justice.

Rebecca A. Settles appeared on her own behalf.

The case was submitted for decision on September 8, 2005.

**FACTUAL FINDINGS**

1. Rebecca A. Settles (petitioner) was issued registered nurse license number 477506 on March 31, 1992. By an order of the Board of Registered Nursing (Board), respondent's license was revoked, effective May 1, 2002. The Board determined that petitioner had engaged in unprofessional conduct, and was subject to disciplinary action under Business and Professions Code sections 2761, subdivision (a) (unprofessional conduct); and 2762, subdivisions (a) and (e).<sup>1</sup>

2. Petitioner filed a Petition for Reinstatement with the Board on July 25, 2005, indicating she wished to return to nursing practice.

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<sup>1</sup> Under Business and Professions Code section 2762, it is unprofessional conduct for a nurse to: "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device in Section 4022. ... (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section."

3. Petitioner turned herself in to law enforcement, pled guilty to criminal charges and had a deferred entry of judgment pending her enrollment in a drug diversion program. On November 12, 2002, she enrolled in the Didi Hirsch Community Mental Health Center Outpatient Drug Free Treatment Program. She continued in this program until May 12, 2003, and then participated in an aftercare program that she completed on February 5, 2004. Petitioner complied with all program requirements including minimum attendance at 48 12-Step meetings. She actually attended 96 meetings. A July 21, 2005 letter from the Didi Hirsch Community Mental Health Center confirms that petitioner "maintained excellent progress during the whole program" and "has remained abstinent and continues to be actively involved in her recovery." After petitioner completed this program, all criminal charges against her were dismissed.

Petitioner also participates in the Glendale Nurse Support Group. She joined this group in February 2002, and the group's facilitator, Joanne Carnes, R.N., notes that petitioner has been "an excellent participant in group, always willing to share honestly and sincerely about her recovery. She is in no denial of her disease, believes in the 12 steps and applies them in all areas of her life." Petitioner's sobriety date is December 26, 2001.

4. Petitioner worked for a personnel services agency doing back office medical assistant work on a temporary basis. Between June 2004 and February 2005, she worked for an internal medicine office as a back office medical assistant. She has not worked in a hospital since 2000, and she does not plan to return to a hospital setting. Rather, she intends to work as a case manager in a clinical setting. For example, she worked at Universal Studios, providing interim care during emergencies until paramedics arrived, and also evaluation of injuries related to workers compensation, and may return to similar work.

Petitioner intends to take nursing refresher courses. She has not been able to repay amounts owing for cost recovery but intends to do so with additional income she earns.

5. The evidence presented demonstrates that petitioner is substantially rehabilitated. She has been clean and sober since December 2001, and is committed to her program of recovery. She points to family support and a large network of people she knows through Narcotics Anonymous and her nurse support group that has allowed her to emerge stronger and that enables her to practice nursing safely. She has learned the importance of maintaining balance as a nurse and not getting caught up in taking care of everyone else while neglecting yourself. She understands that she can now call on others for help and is committed to doing so.

#### LEGAL CONCLUSIONS

Under Business and Professions Code section 2760.1, a registered nurse whose license has been revoked may petition the Board for reinstatement, after a period of not less than two years have elapsed from the effective date of the decision ordering disciplinary action. Cause exists to reinstate petitioner's license based upon the evidence of rehabilitation she presented.

## ORDER

The Petition for Reinstatement of petitioner Rebecca A. Settles is granted and Registered Nursing License Number 477506 is reinstated; but the reinstated license is revoked, the revocation is stayed for three (3) years, and petitioner is placed on probation on the following terms and conditions:

(1) AS A CONDITION PRECEDENT TO THE PRACTICE OF NURSING COMPLETION OF NURSING REFRESHER COURSE - Respondent, at her own expense, shall enroll in and successfully complete a registered nursing refresher course. Respondent shall obtain prior approval from the Board before enrolling in the course. Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course. The Board shall return the original documents to respondent after photocopying them for its records.

(2) OBEY ALL LAWS - Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

(3) COMPLY WITH THE BOARD'S PROBATION PROGRAM - Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, respondent's license shall be fully restored.

(4) REPORT IN PERSON - Respondent, during the period of probation, shall appear in person at interviews/ meetings as directed by the Board or its designated representatives.

(5) RESIDENCY, PRACTICE, OR LICENSURE OUTSIDE OF STATE - Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Respondent's probation is tolled, if and when she resides outside of California. Respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Respondent shall provide a list of all states and territories where she has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing license during the term of probation.

(6) SUBMIT WRITTEN REPORTS - Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

Respondent shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

(7) FUNCTION AS A REGISTERED NURSE - Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If respondent has not complied with this condition during the probationary term, and respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

(8) EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS - Respondent shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Respondent shall provide a copy of this decision to her employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, respondent shall notify the Board in writing within seventy-two (72) hours after she obtains any nursing or other health care related employment. Respondent shall notify the Board in writing within seventy-two (72) hours after she is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

(9) SUPERVISION - Respondent shall obtain prior approval from the Board regarding respondent's level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

(a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours respondent works.

(c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with respondent at least twice during each shift worked.

(d) Home Health Care - If respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by the respondent with or without respondent present.

(10) EMPLOYMENT LIMITATIONS - Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.



Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

(11) COMPLETE A NURSING COURSE(S) - Respondent, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of his or her probationary term. Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to respondent after photocopying them for its records.

(12) COST RECOVERY - When respondent's license is reinstated, she shall pay to the Board the outstanding balance of costs, estimated to be \$5,862.00, associated with its investigation and enforcement pursuant to Business and Professions Code Section 125.3. Respondent shall be permitted to pay these costs in a payment plan approved by the Board. Nothing in this provision shall be construed to prohibit the Board from reducing the amount of cost recovery upon reinstatement of the license.

If respondent has not complied with this condition during the probationary term, and respondent has presented sufficient documentation of his or her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation will apply.

(13) VIOLATION OF PROBATION - If respondent violates the conditions of her probation, the Board after giving respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation) of respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

(14) LICENSE SURRENDER - During respondent's term of probation, if she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, respondent may surrender his or her license to the Board. The Board reserves the right to evaluate respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, respondent will no longer be subject to the conditions of probation.

Surrender of respondent's license shall be considered a disciplinary action and shall become a part of respondent's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

(a) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or

(b) One year for a license surrendered for a mental or physical illness.

(15) PHYSICAL EXAMINATION - Within 45 days of the effective date of this decision, respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician assistant, who is approved by the Board before the assessment is performed, submit an assessment of respondent's physical condition and capability to perform the duties of a registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If medically determined, a recommended treatment program will be instituted and followed by respondent with the physician, nurse practitioner, or physician assistant providing written reports to the Board on forms provided by the Board.

If respondent is determined to be unable to practice safely as a registered nurse, the licensed physician, nurse practitioner, or physician assistant making this determination shall immediately notify the Board and respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and shall not resume practice until notified by the Board. During this period of suspension, respondent shall not engage in any practice for which a license issued by the Board is required until the Board has notified respondent that a medical determination permits respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If respondent fails to have the above assessment submitted to the Board within the 45-day requirement, respondent shall immediately cease practice and shall not resume practice

until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by the respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

(16) PARTICIPATE IN TREATMENT/REHABILITATION PROGRAM FOR CHEMICAL DEPENDENCE - Respondent, at her expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a Board-approved treatment/rehabilitation program of at least six months duration. As required, reports shall be submitted by the program on forms provided by the Board. If respondent has not completed a Board-approved treatment/rehabilitation program prior to commencement of probation, respondent, within 45 days from the effective date of the decision, shall be enrolled in a program. If a program is not successfully completed within the first nine months of probation, the Board shall consider respondent in violation of probation.

Based on Board recommendation, each week respondent shall be required to attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent shall be added. Respondent shall submit dated and signed documentation confirming such attendance to the Board during the entire period of probation. Respondent shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

(17) ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING) DRUGS - Respondent shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, the respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Respondent shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of respondent's history of substance abuse and will coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

(18) SUBMIT TO TESTS AND SAMPLES - Respondent, at her expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. Respondent is responsible for keeping the Board informed of respondent's current telephone number at all times. Respondent shall also ensure that messages may be left at the telephone number when he/she is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and the respondent shall be considered in violation of probation.

In addition, respondent, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If respondent has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board files a petition to revoke probation or an accusation, the Board may suspend respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

If respondent fails to participate in a random, biological fluid testing or drug screening program within the specified time frame, the respondent shall immediately cease practice and shall not resume practice until notified by the Board. After taking into account documented evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may suspend respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

(19) MENTAL HEALTH EXAMINATION - Respondent shall, within 45 days of the effective date of this decision, have a mental health examination including psychological testing as appropriate to determine her capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the Board. All costs are the responsibility of respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by the respondent.

If respondent is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the Board and respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and may not resume practice until notified by the Board. During this period of suspension, respondent shall not engage in any practice for which a license issued by the Board is required, until the Board has notified respondent that a mental health determination permits respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If respondent fails to have the above assessment submitted to the Board within the 45-day requirement, respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by the respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

(20) THERAPY OR COUNSELING PROGRAM - Respondent, at her expense, shall participate in an on-going counseling program until such time as the Board releases her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

DATED: 10/04/05

LaFrancine Tate  
LAFRANCINE TATE

President, Board of Registered Nursing  
State of California

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:)

REBECCA ANN SETTLES ) Case No. 2001-209  
3020 JEWELL STREET ) OAH No. L-2001080560  
LOS ANGELES, CA 90026 )  
RN LICENSE NO. 477506 )

Respondent. )

DECISION AFTER RECONSIDERATION

This matter came on regularly for hearing before Richard J. Lopez, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California, on November 28, 2001. Complainant was represented by Kimberlee D. King, Deputy Attorney General. Respondent was present and represented by Michael Plaut, Attorney at Law.

The Administrative Law Judge issued his Proposed Decision on December 12, 2001. The Proposed Decision of the Administrative Law Judge was adopted by the Board of Registered Nursing on February 20, 2002, to become effective on March 22, 2002. Respondent petitioned for reconsideration of said Proposed Decision on March 8, 2002. On March 20, 2002, the Board issued an Order Granting Reconsideration of the Decision and further staying the Decision until another Decision is rendered. On March 20, 2002, the Board issued an Order Fixing Date For Submission of Written Argument to on or before April 10, 2002. Complainant requested an extension of time to submit written argument.

On April 9, 2002, the Board issued an Order Extending Date For Submission of Written Argument to on or before April 15, 2002. The respondent and complainant submitted written briefs.

Having reviewed the record and petition for reconsideration, the complainant's opposition to respondent's motion for reconsideration, and

1 further argument by respondent, the Board of Registered Nursing now makes and  
2 enters its Decision After Reconsideration as follows:

3  
4 ORDER

5 The Board of Registered Nursing hereby adopts the attached Proposed  
6 Decision of the Administrative Law Judge dated December 12, 2001 as its final  
7 Decision in this matter.

8 This Decision shall become effective on May 1, 2002.

9 IT IS SO ORDERED this 29th day of April, 2002.

10  
11  
12 *Sandra L. Erickson*

13 SANDRA ERICKSON  
14 BOARD PRESIDENT  
15 BOARD OF REGISTERED NURSING  
16 STATE OF CALIFORNIA  
17  
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27

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	)	Case No. 2001-209
	)	OAH No. L-2001080560
REBECCA ANN SETTLES, aka	)	
REBECCA ANN VAZQUEZ, aka	)	
REBECCA ANN BALDERRAMA	)	
3020 Jewell Street	)	
Los Angeles, CA 90026	)	
	)	
Registered Nurse License No. 477506,	)	
	)	
Respondent.	)	
<hr/>		

PROPOSED DECISION

This matter came on for hearing before Richard J. Lopez, Administrative Law Judge of the Office of Administrative Hearings, at Van Nuys, California, on November 28, 2001.

Kimberlee D. King, Deputy Attorney General represented the complainant.

Respondent appeared in person and was represented by Michael Plaut, Attorney at Law.

Oral and documentary evidence and evidence by way of stipulation and official notice was received and the matter then argued and thereafter submitted.

The Administrative Law Judge now finds, determines, and orders as follows:

//  
//  
//  
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//  
//  
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//  
//



## FINDINGS OF FACT

- - -

### PARTIES AND JURISDICTION

1

Ruth Ann Terry, complainant herein brought the Accusation in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.

2

On March 31, 1992, the Board of Registered Nursing issued Registered Nurse License Number 477506 to Rebecca Ann Settles, respondent herein, also known as Rebecca Ann Vazquez and Rebecca Ann Balderrama. The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2002, unless renewed.

3

All prehearing jurisdictional requirements have been met. Jurisdiction for this proceeding does exist.

- - -

### FINDINGS RE: ACCUSATON

4

Between approximately July 18, 1998, through approximately October 11, 1998, while on duty as a registered nurse at Providence Saint Joseph Medical Center, Burbank, California, respondent committed the following acts:

(A) By her own admission, respondent obtained Demerol, a controlled substance, by fraud, deceit, or subterfuge by taking the drugs from the hospital supplies in violation of the Health and Safety Code §11173(a).

(B) By her own admission, respondent possessed Demerol, a controlled substance without lawful authority thereof in violation of BPC §4060.

Between approximately July 18, 1998, through approximately October 11, 1998, while on duty as a registered nurse at Providence Saint Joseph Medical Center, Burbank, California, respondent falsified, made grossly incorrect, grossly inconsistent, or unintelligible entries in hospital records as follows:

Patient Unknown

(A) On July 18, 1998, at 1530, she signed out on the Controlled Substances Administration Record for 75 mgs. of Demerol for patient "Montoya" (there was no patient by the name of Montoya admitted on this date), but failed to chart the wastage of the Demerol in any hospital record or otherwise account for the disposition of the 75 mgs. of Demerol.

Patient M.K.

(B) On July 18, 1998, at 1810, she signed out on the Controlled Substances Administration Record for 75 mgs. of Demerol for patient M.K., but failed to chart the administration or wastage of any portion of the Demerol in any hospital record or otherwise account for the disposition of the 75 mgs. of Demerol.

Patient P.F.

(C) On July 18, 1998, at 1820, she signed out on the Controlled Substances Administration Record for 75 mgs. of Demerol for patient P.F., but failed to chart the administration or wastage of any portion of the Demerol in any hospital record or otherwise account for the disposition of the 75 mgs. of Demerol.

Patient S.S.

(D) On September 29, 1998, at 0715, she signed out on the Controlled Substances Administration Record for 150 mgs. of Demerol for patient S.S., but failed to chart the administration or wastage or any portion of the Demerol in any hospital record or otherwise account for the disposition of the 150 mgs. of Demerol.

Patient R.M.

(E) On September 29, 1998, at 1820, she signed out on the Controlled Substances Administration Record for 150 mgs. of Demerol for patient R.M., but failed to chart the administration or wastage of any portion of the Demerol in any hospital record or otherwise account for the disposition of the 150 mgs. of Demerol.

Patient I.E.

(F) On July 18, 1998, at 1220, she signed out on the Controlled Substances Administration Record for 50 mgs. of Demerol for patient I.E., but failed to chart the administration or wastage of any portion of the Demerol in any hospital record or otherwise account for the disposition of the 50 mgs. of Demerol.

Patient C.M.

(G) On October 6, 1998, at 0730, she signed out on the Controlled Substances Administration Record for 75 mgs. of Demerol for patient C.M., but failed to chart the administration or wastage of any portion of the Demerol in any hospital record or otherwise account for the disposition of the 75 mgs. of Demerol.

Patient V.P.

(H) On October 6, 1998, at 1120, she signed out on the Controlled Substances Administration Record for 125 mgs. of Demerol for patient V.P., but failed to chart the administration or wastage of any portion of the Demerol in any hospital record or otherwise account for disposition of the 125 mgs. of Demerol.

Patient W.K.

(I) On October 6, 1998, at 1600, she signed out on the Controlled Substances Administration Record for 75 mgs. of Demerol for patient W.K., but failed to chart the administration or wastage of any portion of the Demerol in any hospital record or otherwise account for the disposition of the 75 mgs. of Demerol.

Patient A.D.

(J) On October 6, 1998, at 1730, she signed out on the Controlled Substances Administration Record for 50 mgs. of Demerol for patient A.D., but failed to chart the administration or wastage of any portion of the Demerol in any hospital record or otherwise account for the disposition of the 50 mgs. of Demerol.

Patient Y.K.

(K) On October 10, 1998, at 0745, she signed out on the Controlled Substances Administration Record for 150 mgs. of Demerol for patient Y.K., but failed to chart the administration or wastage of any portion of the Demerol in any hospital record or otherwise account for the disposition of the 150 mgs. of Demerol.

Patient R.R.

(L) On October 10, 1998, at 0815, she signed out on the Controlled Substances Administration Record for 150 mgs. of Demerol for patient R.R., but failed to chart the administration or wastage of any portion of the Demerol in any hospital record or otherwise account for the disposition of the 150 mgs. of Demerol.

Patient S.S.

(M) On October 10, 1998, at 1660, she signed out on the Controlled Substances Administration Record for 50 mgs. of Demerol for patient S.S., but failed to chart the administration or wastage of any portion of the Demerol in any hospital record or otherwise account for the disposition of the 50 mgs. of Demerol.

Patient G.K.

(N) On October 10, 1998, at 1620, she signed out on the Controlled Substances Administration Record for 75 mgs. of Demerol for patient G.K., but failed to chart the administration or wastage of any portion of the Demerol in any hospital record or otherwise account for the disposition of the 75 mgs. of Demerol.

(O) On October 10, 1998, at 1810, she signed out on the Controlled Substances Administration Record for 75 mgs. of Demerol for patient G.K., but failed to chart the administration or wastage of any portion of the Demerol in any hospital record or otherwise account for the disposition of the 75 mgs. of Demerol.

Patient J.H.

(P) On October 11, 1998, at 0900, she signed out on the Controlled Substances Administration Record for 150 mgs. of Demerol for patient J.H., but failed to chart the administration or wastage of any portion of the Demerol in any hospital record or otherwise account for the disposition of the 150 mgs. of Demerol.

Patient K.M.

(Q) On October 11, 1998, at 1015, she signed out on the Controlled Substances Administration Record for 125 mgs. of Demerol for patient K.M., but failed to chart the administration or wastage of any portion of the Demerol in any hospital record or otherwise account for the disposition of the 125 mgs. of Demerol.

Patient O.M.

(R) On October 11, 1998, at 1602, she signed out on the Controlled Substances Administration Record for 125 mgs. of Demerol for patient O.M., but failed to chart the administration or wastage of any portion of the Demerol in any hospital record or otherwise account for the disposition of the 125 mgs. of Demerol.

Patient J.W.

(S) On October 11, 1998, at 1620, she signed out on the Controlled Substances Administration Record for 125 mgs. of Demerol for patient J.W., but failed to chart the administration or wastage of any portion of the Demerol in any hospital record or otherwise account for the disposition of the 125 mgs. of Demerol.

6

Respondent's conduct set forth in Findings 4 and 5, separately and severally, constitutes unprofessional conduct.

- - -

FINDINGS  
IN THE  
PUBLIC INTEREST

- - -

MITIGATION

- - -

7

(A) Prior to the time of the conduct set forth in Finding 4 respondent suffered from emotional distress upon learning of the molestation of her teen-age daughter by an extended family member (respondent's uncle). That molestation, over a period of time, rekindled thoughts of the sexual abuse of respondent when respondent was a child. Subjectively she felt she did not do enough to protect her daughter leading to suicidal thoughts. Said circumstances do not excuse the diversion but do mitigate same.

(B) Respondent has been an LVN since 1979 and a RN since 1991 with no record of discipline.

(C) Respondent was cooperative with the Board in its investigation of the case and did admit, with contrition, her illegal diversion of drugs for her own use.

- - -

## REHABILITATION

- - -

8

Respondent pursuant to court order in a DEF (deferred entry of judgement) criminal proceeding has completed a diversion program and a "12-steps program" subsequent to the conduct set forth in Findings 4 and 5. She has committed no like conduct and has continued gainful employment as a RN and has done so with competence and care. She has sought counseling and evaluation by an MD and does, from time to time, attend AA or NA meetings. She has undertaken self improvement and improved her self esteem in that: she has a new diet regime (a loss of 75 pounds); she has previously existing tax problems "under control"; she has changed certain personal relationships to her benefit.

9

Given the gravity of the offenses and the recency of same a sustained period of rehabilitation is necessary for continued licensure on either an unrestricted status or a probationary status. Respondent's conduct set forth in Finding 8 is but a start toward that sustained period of rehabilitation particularly in light of the following circumstances.

- she proffered no documentation of either NA or AA meetings and, at present, she has no sponsor;
- she proffered no documentation (such as a written report) of the consultation with the MD and there is, thus, no informed prognosis.
- she rejected -- because of financial consideration -- the Board's offered entry into a diversion program and only undertook a like program because of court order.
- she has yet to comply with all court requirements and therefore criminal charges have not been dismissed.
- she has achieved familial responsibility of her daughter but did not establish that she has a sufficient support group in place to help her sustain sobriety under periods of stress.

SPECIAL RULING

RE:  
COST

(A) The Board, consistent with BPC §125.3 has asserted costs as follows:

AG (Attorney General)	00/01	3.5	\$106.00	<u>\$ 371.00</u> \$ 371.00
D/I (Investigation)	99/00	36.0	\$113.00	<u>\$4,068.00</u> \$4,068.00
LAT (Legal Analyst)	00/01	8.75	\$ 53.00	<u>\$ 463.75</u> \$ 463.75
TQA (Attorney General)	01/02	8.00	\$120.00	<u>\$ 960.00</u> \$ 960.00

Total cost incurred through 11/18/2001

Total Cost: \$5,862.75

(B) The care arose from complaints by respondent's employer and pharmacist thus required thorough investigation. Given the time necessary to investigate the numerous violations found herein the sum of \$4,068 is deemed to be reasonable.

(C) Given the time necessary to marshal evidence – to a clear and convincing standard – of the numerous violations found herein the sum of \$1,794. is found to be reasonable.

(D) The total reasonable costs are: (B) & (C) or  $\$4,068 + \$1,794. = \$5,862.$

CONCLUSIONS OF LAW

(A) Business and Professions Code (BPC) §2750 states:

Every certificate holder or licensee, including licensees holding temporary licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided in this article. As used in this article, "license" includes certificate, registration, or any other authorization to engage in practice regulated by this chapter. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

(B) BPC §2761 states in pertinent part that the board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for unprofessional conduct.

(C) BPC §2762 of the Code states:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter, it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device in Section 4022.

...

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.

2

Respondent is subject to disciplinary action pursuant to BPC §2761(a) for unprofessional conduct, as defined in BPC §2762(a) by reason of Findings 4 and 6.

3

Respondent is subject to disciplinary action pursuant to BPC §2761(a) for unprofessional conduct as defined in BPC §2762(e) by reason of Findings 5 and 6.

4

BPC §125.3 states, in pertinent part, that a Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

5

Cause exists for an order of costs in the amount of \$5,862 by reason of the Special Ruling.



The objective of an administrative proceeding relating to discipline, if any, is to protect the public; to determine whether a license holder has exercised her privilege in derogation of the public interest. Such proceedings are not for the primary purpose of punishment: *Fahmy v. MBC* (1995) 38 Cal. App. 4<sup>th</sup> 810, 817; *Ex Parte Brounsell* (1778) 2 Cowp. 829, 98 Eng. Rep. 1385. In light of the foregoing and by reason of Finding 9 continued licensure of respondent is contrary to the public interest.

Respondent is commended for her rehabilitative efforts set forth in Finding 8 and is urged to continue and document same in the event of a petition for reinstatement.

### ORDER


1

Registered Nurse License Number 477506 previously issued to Rebecca Ann Settles, also known as Rebecca Ann Vazquez and Rebecca Ann Balderrama is hereby revoked.

2

Respondent shall pay the Board of Registered Nursing \$5,862 as the reasonable costs of the investigation and enforcement of this case within 90 days of the effective date of this decision.

Dated: 12 December 2001

  
 RICHARD J. LOPEZ  
 Administrative Law Judge  
 Office of Administrative Hearings

RJL:rfm

1 BILL LOCKYER, Attorney General  
of the State of California  
2 KIMBERLEE D. KING, State Bar No. 141813  
Deputy Attorney General  
3 California Department of Justice  
300 South Spring Street, Suite 1702  
4 Los Angeles, California 90013  
Telephone: (213) 897-2581  
5 Fax: (213) 897-2804  
6 Attorneys for Complainant

7  
8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the **Accusation** Against:

13 **REBECCA ANN SETTLES, aka**  
14 **REBECCA ANN VAZQUEZ, aka**  
15 **REBECCA ANN BALDERRAMA**  
3020 Jewell Street  
Los Angeles, CA 90026

16 Registered Nurse License No. 477506

17 Respondent.

Case No. 2001-209

**ACCUSATION**

18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation  
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,  
22 Department of Consumer Affairs.

23 2. On or about March 31, 1992, the Board of Registered Nursing issued  
24 Registered Nurse License Number 477506 to Rebecca Ann Settles ("Respondent") also known as  
25 Rebecca Ann Vazquez and Rebecca Ann Balderrama. The Registered Nurse License was in full  
26 force and effect at all times relevant to the charges brought herein and will expire on April 30,  
27 2002, unless renewed.

28 ///

## STATUTORY PROVISIONS

3. Section 2750 of the Business and Professions Code ("Code") states:

Every certificate holder or licensee, including licensees holding temporary licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided in this article. As used in this article, "license" includes certificate, registration, or any other authorization to engage in practice regulated by this chapter. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

4. Section 2761 of the Code states in pertinent part that the board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for unprofessional conduct.

5. Section 2762 of the Code states:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter, it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device in Section 4022.

....

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.

6. Section 125.3 of the Code states, in pertinent part, that a Board may request the administrative law judge to direct a licensee found to have committed a violation or

///

1 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
2 and enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Obtain and Possess Controlled Substances)**

5 7. Respondent is subject to disciplinary action under section 2761(a) of the  
6 Code for unprofessional conduct, as defined in section 2762(a) of that code, in that between  
7 approximately July 18, 1998, through approximately October 11, 1998, while on duty as a  
8 registered nurse at Providence Saint Joseph Medical Center, Burbank, California, respondent  
9 committed the following acts:

10 a. By her own admission, respondent obtained Demerol, a controlled  
11 substance, by fraud, deceit, or subterfuge by taking the drugs from the hospital supplies in  
12 violation of the Health and Safety Code section 11173(a).

13 b. By her own admission, respondent possessed Demerol, a  
14 controlled substance without lawful authority thereof in violation of section 4060 of the Code.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Inconsistent Entries in Hospital Records)**

17 8. Respondent is subject to disciplinary action under section 2761(a) of the  
18 Code as defined in section 2762(e) of that code, in that between approximately July 18, 1998,  
19 through approximately October 11, 1998, while on duty as a registered nurse at Providence Saint  
20 Joseph Medical Center, Burbank, California, respondent falsified, made grossly incorrect,  
21 grossly inconsistent, or unintelligible entries in hospital records as follows:

22 **Patient Unknown**

23 a. On July 18, 1998, at 1530, she signed out on the Controlled Substances  
24 Administration Record for 75 mgs. of Demerol for patient "Montoya" (there was no patient by  
25 the name of Montoya admitted on this date), but failed to chart the wastage of the Demerol in  
26 any hospital record or otherwise account for the disposition of the 75 mgs. of Demerol.

27 ///

28 ///

1                    Patient M.K.

2                    b.        On July 18, 1998, at 1810, she signed out on the Controlled Substances  
3 Administration Record for 75 mgs. of Demerol for patient M.K., but failed to chart the  
4 administration or wastage of any portion of the Demerol in any hospital record or otherwise  
5 account for the disposition of the 75 mgs. of Demerol.

6                    Patient P.F.

7                    c.        On July 18, 1998, at 1820, she signed out on the Controlled Substances  
8 Administration Record for 75 mgs. of Demerol for patient P.F., but failed to chart the  
9 administration or wastage of any portion of the Demerol in any hospital record or otherwise  
10 account for the disposition of the 75 mgs. of Demerol.

11                   Patient S.S.

12                   d.        On September 29, 1998, at 0715, she signed out on the Controlled  
13 Substances Administration Record for 150 mgs. of Demerol for patient S.S., but failed to chart  
14 the administration or wastage or any portion of the Demerol in any hospital record or otherwise  
15 account for the disposition of the 150 mgs. of Demerol.

16                   Patient R.M.

17                   e.        On September 29, 1998, at 1820, she signed out on the Controlled  
18 Substances Administration Record for 150 mgs. of Demerol for patient R.M., but failed to chart  
19 the administration or wastage of any portion of the Demerol in any hospital record or otherwise  
20 account for the disposition of the 150 mgs. of Demerol.

21                   Patient I.E.

22                   f.        On July 18, 1998, at 1220, she signed out on the Controlled Substances  
23 Administration Record for 50 mgs. of Demerol for patient I.E., but failed to chart the  
24 administration or wastage of any portion of the Demerol in any hospital record or otherwise  
25 account for the disposition of the 50 mgs. of Demerol.

26                   Patient C.M.

27                   g.        On October 6, 1998, at 0730, she signed out on the Controlled Substances  
28 Administration Record for 75 mgs. of Demerol for patient C.M., but failed to chart the

1 administration or wastage of any portion of the Demerol in any hospital record or otherwise  
2 account for the disposition of the 75 mgs. of Demerol.

3 Patient V.P.

4 h. On October 6, 1998, at 1120, she signed out on the Controlled Substances  
5 Administration Record for 125 mgs. of Demerol for patient V.P., but failed to chart the  
6 administration or wastage of any portion of the Demerol in any hospital record or otherwise  
7 account for the disposition of the 125 mgs. of Demerol.

8 Patient W.K.

9 i. On October 6, 1998, at 1600, she signed out on the Controlled Substances  
10 Administration Record for 75 mgs. of Demerol for patient W.K., but failed to chart the  
11 administration or wastage of any portion of the Demerol in any hospital record or otherwise  
12 account for the disposition of the 75 mgs. of Demerol.

13 Patient A.D.

14 j. On October 6, 1998, at 1730, she signed out on the Controlled Substances  
15 Administration Record for 50 mgs. of Demerol for patient A.D., but failed to chart the  
16 administration or wastage of any portion of the Demerol in any hospital record or otherwise  
17 account for the disposition of the 50 mgs. of Demerol.

18 Patient Y.K.

19 k. On October 10, 1998, at 0745, she signed out on the Controlled  
20 Substances Administration Record for 150 mgs. of Demerol for patient Y.K., but failed to chart  
21 the administration or wastage of any portion of the Demerol in any hospital record or otherwise  
22 account for the disposition of the 150 mgs. of Demerol.

23 Patient R.R.

24 l. On October 10, 1998, at 0815, she signed out on the Controlled  
25 Substances Administration Record for 150 mgs. of Demerol for patient R.R., but failed to chart  
26 the administration or wastage of any portion of the Demerol in any hospital record or otherwise  
27 account for the disposition of the 150 mgs. of Demerol.

28 ///

1                    Patient S.S.

2                    m.     On October 10, 1998, at 1660, she signed out on the Controlled  
3 Substances Administration Record for 50 mgs. of Demerol for patient S.S., but failed to chart the  
4 administration or wastage of any portion of the Demerol in any hospital record or otherwise  
5 account for the disposition of the 50 mgs. of Demerol.

6                    Patient G.K.

7                    n.     On October 10, 1998, at 1620, she signed out on the Controlled  
8 Substances Administration Record for 75 mgs. of Demerol for patient G.K., but failed to chart  
9 the administration or wastage of any portion of the Demerol in any hospital record or otherwise  
10 account for the disposition of the 75 mgs. of Demerol.

11                   o.     On October 10, 1998, at 1810, she signed out on the Controlled  
12 Substances Administration Record for 75 mgs. of Demerol for patient G.K., but failed to chart  
13 the administration or wastage of any portion of the Demerol in any hospital record or otherwise  
14 account for the disposition of the 75 mgs. of Demerol.

15                   Patient J.H.

16                   p.     On October 11, 1998, at 0900, she signed out on the Controlled  
17 Substances Administration Record for 150 mgs. of Demerol for patient J.H., but failed to chart  
18 the administration or wastage of any portion of the Demerol in any hospital record or otherwise  
19 account for the disposition of the 150 mgs. of Demerol.

20                   Patient K.M.

21                   q.     On October 11, 1998, at 1015, she signed out on the Controlled  
22 Substances Administration Record for 125 mgs. of Demerol for patient K.M., but failed to chart  
23 the administration or wastage of any portion of the Demerol in any hospital record or otherwise  
24 account for the disposition of the 125 mgs. of Demerol.

25                   Patient O.M.

26                   r.     On October 11, 1998, at 1602, she signed out on the Controlled  
27 Substances Administration Record for 125 mgs. of Demerol for patient O.M., but failed to chart

28     ///

1 the administration or wastage of any portion of the Demerol in any hospital record or otherwise  
2 account for the disposition of the 125 mgs. of Demerol.

3 Patient J.W.

4 s. On October 11, 1998, at 1620, she signed out on the Controlled  
5 Substances Administration Record for 125 mgs. of Demerol for patient J.W., but failed to chart  
6 the administration or wastage of any portion of the Demerol in any hospital record or otherwise  
7 account for the disposition of the 125 mgs. of Demerol.

8 THIRD CAUSE FOR DISCIPLINE

9 (Unprofessional Conduct)

10 9. Respondent is subject to disciplinary action under section 2761(a) of the  
11 Code, for unprofessional conduct as set forth in paragraphs 7 and 8.

12 PRAYER

13 WHEREFORE, Complainant requests that a hearing be held on the matters  
14 herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

15 1. Revoking or suspending Registered Nurse License Number 477506, issued  
16 to Rebecca Ann Settles, also known as Rebecca Ann Vazquez and Rebecca Ann Balderrama;

17 2. Ordering Rebecca Ann Settles to pay the Board of Registered Nursing the  
18 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
19 Professions Code section 125.3;

20 3. Taking such other and further action as deemed necessary and proper.

21 DATED: 1/19/01

22  
23 Ruth Ann Terry  
24 RUTH ANN TERRY, M.P.H., R.N.  
25 Executive Officer  
26 Board of Registered Nursing  
27 Department of Consumer Affairs  
28 State of California  
Complainant

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ps (1-4-00)